

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In Re:

2265 ENTERPRISE EAST, LLC,

Debtor.

CASE NO. 19-52510-amk

Chapter 11

JUDGE ALAN M. KOSCHIK

**MOTION FOR RULE 2004
EXAMINATION AND NOTICE OF
JAMES P. BREEN IN HIS
CAPACITY AS TRUSTEE OF ANY
AND ALL TRUSTS HOLDING AN
OWNERSHIP/EQUITY INTEREST
IN 2265 ENTERPRISE EAST LLC**

Pursuant to Rule 2004, Fed. R. Bankr. P., Movant Keystone Real Estate Lending Fund L.P. (“Movant-Secured Creditor”) by the undersigned attorney, moves for examination of James P. Breen, in his capacity as Trustee of any and all trusts holding an equity/ownership interest in the Debtor, 2265 Enterprise East, LLC (collectively, the “Trusts”), on December 30, 2019 at the law offices of Dinn, Hochman & Potter, LLC, 5910 Landerbrook Drive, Suite 200, Cleveland, Ohio 44124 at 11:30 a.m., or at such other time as is convenient for all parties on or before January 3, 2020, and in support of this Motion states:

1. Movant-Secured Creditor is a party in interest, being a creditor of Debtor.
2. The proposed examination relates to:
 - (a) Debtor’s Motion to Sell [Doc. 16], Keystone’s objection thereto [Doc. 26], Movant’s Motion to Dismiss Case, or Alternatively, for Relief from Stay [Doc. 24] and Debtor’s objection thereto [Doc. Nos. 37, 40] (“Contested Matters”);
 - (b) The acts, conduct and property of the Debtor and the liabilities and financial condition of the Debtors; and

- (c) Other matters that may affect the administration of the Debtors' estate, namely Debtors ' post-petition conduct and activities.

3. By Scheduling Order dated December 11, 2019 [Doc. 48], this Court has scheduled the Contested Matters for hearing on January 16, 2020 with a discovery cut-off date of January 3, 2020.

4. The proposed examination is necessary to properly prepare for hearings/trial of the Contested Matters.

5. Movant-Secured Creditor requests that the representative of BTC be ordered to bring with them and be prepared to testify regarding:

- Records of any investment or ownership in Debtor;
- Records of disbursements to any Debtor-affiliated entity, including but not limited to James P. Breen Real Estate, Orchard's Way, Manchester Realty;
- Records of any money delivered/disbursed to trust from Debtor entity or any other entity
- Trust K-1's, 1099's, and tax returns

6. A proposed Order granting the relief requested herein is attached hereto.

WHEREFORE, Movant Keystone Real Estate Lending Fund L.P. moves for the examination on December 30, 2019 at 11:30 a.m. of James P. Breen, in his capacity as Trustee of any and all trust holding an equity/ownership interest in the Debtor, 2265 Enterprise East, LLC, pursuant to Rule 2004, Fed. R. Bankr. P. and prays for such other and further relief as is just and proper.

Respectfully Submitted,

DINN, HOCHMAN & POTTER, LLC

/s/ Robert W. McIntyre

BENJAMIN D. CARNAHAN (0079737)

ROBERT W. MCINTYRE (0006768)

5910 Landerbrook Drive, Suite 200
Cleveland, Ohio 44124
Telephone: (440) 446-1100
Facsimile: (440) 446-1240
E-Mail: rmcintyre@dhplaw.com
Attorneys for Creditor

CERTIFICATE OF SERVICE

I hereby certify that on December 19, 2019, the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

DINN, HOCHMAN & POTTER, LLC

/s/ Robert W. McIntyre
BENJAMIN D. CARNAHAN (0079737)
ROBERT W. MCINTYRE (0006768)
Attorneys for Creditor